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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 3600

Law Offices of Royal W. Craig
10 North Calvert Street
Suite 153
Baltimore, MD 21202

Paper No. 35

Application Number: 09/458,132
Filing Date: December 9, 1999
Applicant: Sprague et al
For: VERI MAG PACK

DECISION
ON PETITION
UNDER 37 CFR 1.181

This is a decision on the petition filed on January 9, 2003, under 37 C.F.R. 1.181, for the Director to invoke his supervisory authority to refund the three (3) month extension fee filed on January 9, 2003.

In review of the file history it is clear that the Advisory Action mailed on December 13, 2002 was made in error because it raised new formal issues that were not previously addressed. Such issues should have been presented in an *Ex parte* Quayle action. The M.P.E.P. under 706.07(f) sets forth that formal matters which are identified for the **first time**, after a final rejection, should be corrected by an *Ex parte* Quayle action.

Therefore, since an *Ex parte* Quayle action would have given the applicant 2 months to prepare his response to overcome the pending objection without filing an extension of time fee, the request for a refund of the extension of time fee under Section 1.17(a)(3) of \$465.00 has been **granted**.

The application has been forwarded to the Head Supervisory Applications Examiner to refund \$465.00 to deposit account no. 03-3565.

The petition for a refund has been **GRANTED**.

John J. Love
Director, Technology Center
(703) 308-1020

JL:jw

Adjustment Date: 04/02/2004
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01 FC:2203
5.00 CR
09458132
0460.00
Repln. Ref: 04/02/2004 Luj/DEN 00112465
DAH:033565 Name/Number: 09458132
FC: 3204 \$460.00